ATTACHMENT A

Remarks

First, the indication that claims 17 and 18 would be allowable if "rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims" is noted with appreciation. Claim 17 has been rewritten in an independent form as new claim 20 and includes the subject matter of base claim 13 and intervening claim 16. Claim 18 has been amended to depend from claim 20. The reference to the "rejection(s) under 35 U.S.C. 112, second paragraph," is not understood. This reference would appear to apply to a different application since there has been no rejection under 35 U.S.C. 112, second paragraph, set forth in this Office Action. In any event, claims 20 and 18 should now be in condition for allowance along with previously allowed claim 19.

Claims 13 to 16 have been rejected under 35 U.S.C. 103(a) as being "unpatentable over Eckert et al (5,737,963) in view of Schontzler et al (3,866,028)." This rejection is respectfully traversed although the claims have been amended to even more clearly define over the cited references.

First, it is noted that the ultrasonic transducer of the Eckert patent is used for measuring the filling level in a container and is not concerned with a "continuous flow measurement recorder for determining and displaying water flow in an open channel," as claimed. Moreover, the patent does not disclose a sensor for determining, using a measuring structure in the open channel, the pressure of water flowing in the open channel and for producing a corresponding output signal, much less "using a measuring structure comprising a weir or flume disposed in the open channel," as now claimed. In addition, the reference does not disclose a central processing unit for receiving the output signal from the sensor, for calculating total water flow in the channel based on the output signal and for producing a total flow signal based on the calculated total flow, as claimed. The Eckart et al patent merely makes reference to "an electronics housing" and, as pointed out by the Examiner, making "a signal corresponding to the filling level available for further processing and/or indication." Thus, as acknowledged by the Examiner, the Eckart et al patent does not disclose any display device much less a

display device for receiving the total control signal from the central processing unit and for displaying total flow based thereon, as claimed. Moreover, in the latter regard, claim 13 has been amended to provide that the top portion of the housing includes " a window in an upper region thereof through with the display device can be viewed." Again, there is simply no teaching of such a construction in the Eckart et al patent which merely refers to some kind of "indication."

The Schontzler patent discloses as fluid flow measuring system wherein a motorized fluid flow detector lowers a weight and probe downwardly until the probe contacts the fluid surface and then immediately withdraws the probe upon contacting the fluid surface. Thus the sensor is quite different than that of the ultrasonic transducer of the Eckart patent and given these differences, it is not seen why it would be obvious to use the transducer of the latter in the fluid flow measuring system of the Schontzler et al patent. Moreover, even if the teaching of the Eckart et al patent, relating to an ultrasonic transducer for measuring the filling level in a container, were somehow combined with or substituted for a fluid flow detector which is dependent upon physically contacting a fluid surface in an open channel, the resultant hybrid combination would not be the continuous flow measurement recorder claimed in claim 13. In this regard, among other differences, the resultant hybrid construction would not include the aforementioned top portion including a window in an upper region thereof through which a display device can be viewed.

Allowance of the application in its present form is respectfully solicited.